



Off to the Races!

New Legislative Proposals Already Being Debated in Committees

by Donna DiMaggio Berger, Esq.

Have you read your *2011 Legislative Guidebook for Community Associations* (www.KGBguidebook.com) and do you feel pretty comfortable navigating your community through all the new changes? Well, stay tuned, because new legislative proposals are already being debated.

Although January 10, 2012 is the first day of the legislative session, state lawmakers trekked to Tallahassee last month to begin committee meetings. Faced with just 60 days to address the numerous and varied needs of our state, legislators began debating bills assigned to their

respective, substantive committees prior to the official start date. Without these interim meetings, legislators would not be able to hit the ground running once the clock starts ticking come January.

A bill is sent to between two to five committees in each House. Legislative leadership in both the Senate and the House assigns bills to various committees based on the legislation's subject matter. So, even a bill on the fast track needs a few weeks to get to the floor for a vote by the full membership of each House.

Bills that are not a high priority for legislative leaders take even longer to get through the process. Each committee

chair sets the agenda for their meetings and is heavily lobbied by legislators, advocates, professional lobbyists, and constituents to add the bills they care about to the agenda. With several committees meeting each day, the meetings are typically limited to two hours. It is not uncommon for a controversial bill to monopolize an entire committee meeting (or two!). Senate and House committees typically meet once a week for the first 50 days of the 60 days of the legislative session. The remaining 10 days of each session sees no committee activity as senators and representatives are on the floor each of those days voting on bills that have made it through the committee process already. Thus far, in the 2012 session, there are a handful of proposals, which would impact community associations moving through the process.

Fast-track Foreclosures

Most notably, Representative Kathleen Passidomo (R-Naples) will file a revised version of a measure she pushed last session, known as the "Florida Fair Foreclosure Act" (FFFA). Although the bill does not go as far as other states that shift all residential foreclosures out of the courts into a full-blown non-judicial foreclosure system, it does permit foreclosures outside of the courtroom in limited circumstances. The bill is still being drafted, so the final version remains unknown. In its last iteration, the legislation would:

- Move residential properties (homesteaded and non-homesteaded) out of the courts if the mortgage exceeded 120 percent of the property's value;



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- Revert the property to the lender, the property would not be sold at an auction;
- Permit homeowners moved out of the judicial process to demand a court-supervised sale if they pay the related costs; and
- Begin the new non-judicial process 15 days before a foreclosure judgment, with repossession occurring 10 days later.

Last session, lawmakers did not take action on this issue, nor a proposal to move commercial property foreclosures outside the judiciary. Similar to the FFFA, the commercial foreclosure bill did not gain much traction, failing to be heard in a single committee in either House. It remains to be seen whether it will return this coming session.

Friendlier Foreclosures? (HB 65)

Representative Darren Soto (D-Orlando) has filed legislation that would create a one-year program to incentivize banks and homeowners to work together to complete the bank's foreclosure action in a "kinder" fashion. If passed, the state would administer this federally-funded program. Homeowners who:

- Purchased their property (must be homesteaded) between January 1, 2004 and December 31, 2008;
- Agree to a foreclosure without financial penalty;
- Leave the home within three months after they settle the suit or the home is sold in a judicial sale, whichever is later, will receive \$1000 for moving costs.

The banks that allow the homeowner to settle without financial penalty would receive 10 percent of the amount that was due to

them from the federal agency.

Got Docks? If So, You May Be Getting Some Green (SB 888 & HB 13)

- Florida assesses and collects lease fees for private boat docks. Individuals leasing the docks pay the greater of a fixed minimum amount or the amount calculated through a formula based on either annual income or square footage.

In addition to an annual dock lease fee, community associations with residential multi-family docks, which have 10 or more slips, must pay a one-time fee when they initiate a lease. Additionally, when a unit in the building is sold, the amount of the sale that can be attributed to the slip is included as a factor

in determining the lease fee owed to the state. Senator Jack Latvala (R-Tampa) and Representative Jim Frishe (R-Belleair Bluffs) filed legislation that would exempt associations that meet both of the following conditions from paying dock lease fees to the state:

- Associations with more units than docks; and
- Associations that use 10 square feet or less of submerged land for every foot of shore line.
- Additionally, the bill would prohibit the board from collecting lease fees owed to the state when a homesteaded property is transferred or sold.

Brighter Budget Outlook? Maybe

In 2006, Florida voters adopted a constitutional amendment that requires the development of a Long-Range Financial Outlook Plan, setting out recommended fiscal strategies for the state and its departments in order to assist the legislature in making budget decisions. Last month's report was the first since its inception in which large budget deficits were not projected. Lawmakers, however, are not popping the champagne bottles just yet. With the financial troubles in Europe and lack of consumer confidence at home, analysts are predicting the next estimating report to show little to no growth in revenues for the 2012-2013 fiscal year. The lack of a major budget gap, however, could be good news for condominium owners as this could be the first year that there would be no need to raid the Condominium Trust Fund. Over the past four years this fund has been raided to a tune of more than \$23 million!

You may have already guessed that budget changes are harder to follow than legislative bills. After each House passes their respective budgets, subcommittees with members of both the Senate and the House meet to hash out the differences in the plans in their areas of expertise (for example, health care and social services, criminal justice, or economic development). Many of the decisions coming out of these meetings happen behind closed doors, and there is no way of knowing if a budget item is being reduced or completely eliminated until the day of the joint meeting. These committee reports are then sent to the floor for a vote of the full Senate and House. Legislators can only vote yes or no for this final plan; they may not amend the product that comes out of these budget conferences.

Although it is early in the process and there is a lot more to come, stakeholders and lawmakers are moving full speed ahead without most constituents knowing that the process is already well underway. Stay tuned for more insider information coming your way in this column!

Donna DiMaggio Berger, Esq. is the Managing Partner of the statewide community association law firm of Katzman Garfinkel & Berger (KG&B) as well as the Executive Director of the Community Advocacy Network (CAN). For more information, visit [www. KGBLawFirm.com](http://www.KGBLawFirm.com). -